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SENATE BILL

No. 1257

Introduced by Senator Murray

(Principal coauthor: Assembly Member Dutra)

(Coauthors: Senators Chesbro, Johannessen, and Ortiz)

(Coauthors: Assembly Members Aanestad, Alquist, Bill Campbell, Diaz, Koretz, Liu, Nakano, Pescetti, Richman, Salinas, and Strickland)

January 9, 2002

An act to add Section 25160.7 to the Health and Safety Code, and to amend Sections 2402.6, 32000.5, 32001, and 34501.12 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1257, as amended, Murray. Vehicles: hazardous materials transportation.

(1) Existing law prohibits any person from operating a commercial motor vehicle carrying hazardous materials unless that person has in his or her possession a valid commercial driver's license for the appropriate class of vehicle, and an endorsement from the Department of Motor Vehicles to permit the operation of the vehicle. Existing law relating to

hazardous waste control imposes various requirements with respect to the transportation of hazardous waste. A violation of the above provisions is a crime, punishable as specified.

This bill would also provide that an authorized representative of the generator or facility operator that is responsible for loading hazardous waste into a transport vehicle shall, prior to that loading, ensure that the driver of the transport vehicle is in possession of the appropriate class of driver's license and any endorsement required to lawfully operate the transport vehicle with its intended load. By creating a new crime, this bill would impose a state-mandated local program upon local governments.

(2) Existing law provides that the Commissioner of the California Highway Patrol may adopt and enforce regulations and standards with respect to fuel containers and fuel systems on vehicles using compressed or liquefied natural and petroleum gasses, as specified.

This bill would also allow the commissioner to adopt and enforce regulations with respect to vehicles using compressed or liquefied hydrogen gas or liquid fuels that generate hydrogen gas.

(3) Existing law generally requires every motor carrier that transports for a fee in excess of 500 pounds of hazardous materials for which placards are required to be licensed, as specified. Existing law exempts from these licensure requirements specified persons hauling only hazardous waste who are registered under the Health and Safety Code.

This bill would provide that these persons hauling only hazardous waste who are registered under the Health and Safety Code shall nonetheless be subject to specified licensing provisions relating to inspections, vehicle equipment, and compliance with specified laws and regulations.

(4) Existing law relating to the transportation of hazardous material makes it a crime for any motor carrier to direct the transportation of any shipment of hazardous material in any vehicle unless the vehicle and shipment meet specified requirements and the motor carrier holds a valid license for the transportation of hazardous material.

This bill would also require, with specified exceptions, (a) a vehicle or combination of vehicles transporting specified dangerous substances to be equipped with a 2-way communication device, maintained in good working order, that enables the driver to contact the personnel responsible for the safety operations of the motor carrier in the event of an emergency; and (b) a vehicle or combination of vehicles transporting



specified dangerous substances that has an enclosed cargo body, as defined, to be locked and remain locked during transit of the hazardous materials so as to prevent any unauthorized entry; to be opened only during loading, unloading, or at the direction of a peace officer, an authorized employee of the department, or a person authorized as specified; and, if the vehicle has been left unattended for any length of time, that the driver verify that all locks are in place and note this in his or her log book. By creating new crimes, this bill would impose a state-mandated local program upon local governments.

(5) Existing law provides that the Department of Motor Vehicles shall inspect, at least every 25 months, every terminal of specified motor carriers, including vehicles transporting hazardous material.

This bill would require the department to place an inspection priority on those terminals operating vehicles transporting hazardous material.

(6) This bill would require the California Highway Patrol, by July 1, 2004, to prepare a report on the feasibility and cost-effectiveness of requiring all commercial motor vehicles ~~carrying~~ *required to display warning placards when transporting any amount of explosives, radiological materials, poisonous materials, or extremely toxic materials hazardous waste* to be equipped with global positioning devices.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25160.7 is added to the Health and
- 2 Safety Code, to read:
- 3 25160.7. An authorized representative of the generator or
- 4 facility operator that is responsible for loading hazardous waste
- 5 into a transport vehicle shall, prior to that loading, ensure that the
- 6 driver of the transport vehicle is in possession of the appropriate
- 7 class of driver's license and any endorsement required to lawfully
- 8 operate the transport vehicle with its intended load.



1 SEC. 2. Section 2402.6 of the Vehicle Code is amended to
2 read:

3 2402.6. (a) The commissioner may adopt and enforce
4 regulations and standards with respect to fuel containers and fuel
5 systems on vehicles using compressed or liquefied natural gas and
6 liquefied petroleum gas used in conjunction with a propulsion
7 system certified by the State Air Resources Board as producing as
8 few or fewer emissions as a State Air Resources Board approved
9 system using compressed or liquefied natural gas or liquefied
10 petroleum gas and with respect to the operation of vehicles using
11 any of those fuels to ensure the safety of the equipment and
12 vehicles and of persons and property using the highways.

13 (b) The commissioner may also adopt and enforce regulations
14 and standards with respect to fuel containers and fuel systems on
15 vehicles using compressed or liquefied hydrogen gas or liquid
16 fuels that generate hydrogen gas.

17 (c) All motor vehicles with compressed natural gas fuel
18 systems used for propulsion shall comply either with the
19 regulations adopted pursuant to subdivision (a) or with National
20 Fire Protection Administration Standard NFPA 52, "Compressed
21 Natural Gas (CNG) Vehicular Fuel Systems" in effect at the time
22 of manufacture, until standards for those fuel systems have been
23 incorporated into the Federal Motor Vehicle Safety Standards by
24 the United States Department of Transportation. Whenever those
25 Federal Motor Vehicle Safety Standards include requirements for
26 gaseous fuel systems, all motor vehicles with gaseous fuel systems
27 which are manufactured after the effective date of those
28 requirements shall comply with those requirements.

29 (d) It is an infraction for any person to operate any motor
30 vehicle in violation of any provision of a regulation adopted
31 pursuant to this section.

32 (e) The operator of every facility for filling portable liquefied
33 natural gas or liquefied petroleum gas containers having a capacity
34 of four pounds or more but not more than 200 pounds of gas shall
35 post in a conspicuous place the regulations applicable to that filling
36 procedure.

37 SEC. 3. Section 32000.5 of the Vehicle Code is amended to
38 read:

39 32000.5. (a) Every motor carrier who directs the
40 transportation of an explosive and, on and after July 1, 1982, any

1 motor carrier who directs the transportation of a hazardous
2 material, who is required to display placards pursuant to Section
3 27903, and every motor carrier who transports for a fee in excess
4 of 500 pounds of hazardous materials of the type requiring
5 placards pursuant to Section 27903, shall be licensed in
6 accordance with the provisions of this code, unless specifically
7 exempted by this code or regulations adopted pursuant to this code.
8 This license shall be available for examination and shall be
9 displayed in accordance with the regulations adopted by the
10 commissioner.

11 (b) (1) Except as provided in Section 32001, this division shall
12 not apply to any person hauling only hazardous waste, as defined
13 in Section 25115 or 25117 of the Health and Safety Code, and who
14 is registered pursuant to subdivision (a) of Section 25163 of the
15 Health and Safety Code or who is exempt from that registration
16 pursuant to subdivision (b) of that section.

17 (2) Motor carriers that are transporting a hazardous waste and
18 are required to display placards pursuant to Section 27903 shall
19 comply with all provisions of Section 32001 except paragraph (3)
20 of subdivision (c) of that section.

21 (c) This division does not apply to implements of husbandry,
22 as defined in Section 36000.

23 (d) This division does not apply to the hauling of division 1.3
24 explosives classified as special fireworks or to division 1.4
25 explosives classified as common fireworks by the United States
26 Department of Transportation if those fireworks are transported by
27 a motor carrier under the authority of, and in conformance with,
28 a license issued to the motor carrier by the State Fire Marshal
29 pursuant to Part 2 (commencing with Section 12500) of Division
30 11 of the Health and Safety Code. In that case, a copy of the license
31 shall be carried in the vehicle and presented to any peace officer
32 upon request.

33 SEC. 4. Section 32001 of the Vehicle Code is amended to
34 read:

35 32001. (a) (1) Any authorized employee of the department
36 may inspect any sealed or unsealed vehicle, container, or shipment
37 subject to this division in maintenance facilities, terminals, or
38 other public or private property to ascertain the quantity and kind
39 of hazardous material and to ensure compliance with the

1 provisions of this code and regulations adopted pursuant to this
2 code.

3 (2) If a seal is opened for inspection, the department shall reseal
4 any vehicle, container, or shipment prior to further transportation.

5 (b) Unless specifically stated, nothing contained in this
6 division shall be deemed to exempt any vehicle transporting a
7 hazardous material subject to this division or the operator or any
8 other person from other provisions of this code.

9 (c) No motor carrier shall direct the transportation of any
10 shipment of a hazardous material in any vehicle unless all of the
11 following are complied with:

12 (1) The vehicle is equipped as required by this code and
13 applicable regulations adopted pursuant to law.

14 (2) The shipment complies with laws and regulations
15 pertaining to the shipment or transportation of hazardous material.

16 (3) The motor carrier holds a valid license for the transportation
17 of hazardous materials.

18 (4) (A) A vehicle or combination of vehicles required to
19 display placards pursuant to Section 27903 is equipped with a
20 two-way communication device, maintained in good working
21 order, that enables the driver to contact the personnel responsible
22 for the safety operations of the motor carrier in the event of an
23 emergency.

24 (B) For the purposes of this section, “two-way communication
25 device” means a radio, cellular telephone, or other similar device
26 that permits communication between the driver and personnel
27 responsible for the safety operations of the motor carrier.

28 (5) (A) The enclosed cargo body, when the display of placards
29 is required pursuant to Section 27903, shall be locked and remain
30 locked during transit of the hazardous materials so as to prevent
31 any unauthorized entry and shall be opened only during loading,
32 unloading, or at the direction of a peace officer, an authorized
33 employee of the department, or a person authorized pursuant to
34 Section 25185 of the Health and Safety Code.

35 (B) A driver transporting hazardous material in a locked cargo
36 body shall verify that all locks are in place if the vehicle has been
37 left unattended for any length of time. Each driver shall make a
38 notation in his or her log book of the time and date that the
39 verification occurred.



1 (C) For the purposes of this section, “cargo body” means a
2 fully enclosed area that is an integral part of the vehicle and
3 designed to encapsulate the entire load, such as a van body or an
4 intermodal freight container, and does not mean a tank or flatbed
5 type of vehicle.

6 (d) The commissioner may issue exemptions from the
7 provisions of this section.

8 (e) Nothing in this section shall limit the ability of other state
9 or local agencies to carry out their regulatory, enforcement, or
10 emergency response duties under other provisions of law.

11 SEC. 5. Section 34501.12 of the Vehicle Code is amended to
12 read:

13 34501.12. (a) Notwithstanding Section 408, as used in this
14 section and Sections 34505.5 and 34505.6, “motor carrier” means
15 the registered owner of any vehicle described in subdivision (a),
16 (b), (e), (f), or (g) of Section 34500, except in the following
17 circumstances:

18 (1) The registered owner leases the vehicle to another person
19 for a term of more than four months. If the lease is for more than
20 four months, the lessee is the motor carrier.

21 (2) The registered owner operates the vehicle exclusively
22 under the authority and direction of another person. If the
23 operation is exclusively under the authority and direction of
24 another person, that other person may assume the responsibilities
25 as the motor carrier. If not so assumed, the registered owner is the
26 motor carrier. A person who assumes the motor carrier
27 responsibilities of another pursuant to subdivision (b) shall
28 provide to that other person whose motor carrier responsibility is
29 so assumed, a completed copy of a department form documenting
30 that assumption, stating the period for which responsibility is
31 assumed, and signed by an agent of the assuming person. A legible
32 copy shall be carried in each vehicle or combination of vehicles
33 operated on the highway during the period for which responsibility
34 is assumed. That copy shall be presented upon request by any
35 authorized employee of the department. The original completed
36 departmental form documenting the assumption shall be provided
37 to the department within 30 days of the assumption. If the
38 assumption of responsibility is terminated, the person who had
39 assumed responsibility shall so notify the department in writing
40 within 30 days of the termination.

(b) (1) A motor carrier may combine two or more terminals for purposes of the inspection required by subdivision (d) subject to all of the following conditions:

(A) The carrier identifies to the department, in writing, each terminal proposed to be included in the combination of terminals for purposes of this subdivision prior to an inspection of the designated terminal pursuant to subdivision (d).

(B) The carrier provides the department, prior to the inspection of the designated terminal pursuant to subdivision (d), a written listing of all its vehicles of a type subject to subdivision (a), (b), (e), (f), or (g) of Section 34500 that are based at each of the terminals combined for purposes of this subdivision. The listing shall specify the number of vehicles of each type at each terminal.

(C) The carrier provides to the department at the designated terminal during the inspection all maintenance records and driver records and a representative sample of vehicles based at each of the terminals included within the combination of terminals.

(2) If the carrier fails to provide the maintenance records, driver records, and representative sample of vehicles pursuant to subparagraph (C) of paragraph (1), the department shall assign the carrier an unsatisfactory terminal rating and require a reinspection to be conducted pursuant to subdivision (h).

(3) For purposes of this subdivision, the following terms have the meanings given:

(A) “Driver records” includes pull notice system records, driver proficiency records, and driver timekeeping records.

(B) “Maintenance records” includes all required maintenance, lubrication, and repair records and drivers’ daily vehicle condition reports.

(C) “Representative sample” means the following, applied separately to the carrier’s fleet of motortrucks and truck tractors and its fleet of trailers:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9

1	51 to 90	14
2	91 or more	20

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4 (c) Each motor carrier who, in this state, directs the operation
5 of, or maintains, any vehicle of a type described in subdivision (a)
6 shall designate one or more terminals, as defined in Section 34515,
7 in this state where vehicles can be inspected by the department
8 pursuant to paragraph (4) of subdivision (a) of Section 34501 and
9 where vehicle inspection and maintenance records and driver
10 records will be made available for inspection.

11 (d) (1) The department shall inspect, at least every 25 months,
12 every terminal, as defined in Section 34515, of any motor carrier
13 who, at any time, operates any vehicle described in subdivision (a).

14 (2) The department shall place an inspection priority on those
15 terminals operating vehicles listed in subdivision (g) of Section
16 34500.

17 (3) As used in this section and in Sections 34505.5 and
18 34505.6, subdivision (f) of Section 34500 includes only those
19 combinations where the gross vehicle weight rating (GVWR) of
20 the towing vehicle exceeds 10,000 pounds, but does not include a
21 pickup truck, and subdivision (g) of Section 34500 includes only
22 those vehicles transporting hazardous material for which the
23 display of placards is required pursuant to Section 27903, a license
24 is required pursuant to Section 32000.5, or for which hazardous
25 waste transporter registration is required pursuant to Section
26 25163 of the Health and Safety Code. Historical vehicles, as
27 described in Section 5004, vehicles that display special
28 identification plates in accordance with Section 5011, implements
29 of husbandry and farm vehicles, as defined in Chapter 1
30 (commencing with Section 36000) of Division 16, and vehicles
31 owned or operated by an agency of the federal government are not
32 subject to this section or to Sections 34505.5 and 34505.6.

33 (e) (1) It is the responsibility of the motor carrier to schedule
34 with the department the inspection required by subdivision (d).
35 The motor carrier shall submit an application form supplied by the
36 department, accompanied by the required fee. The fee, which is
37 nonrefundable, is four hundred dollars (\$400) per terminal, except
38 in the case of an owner-operator, or a nonregulated motor carrier
39 who owns, leases, or otherwise operates not more than one heavy
40 power unit and not more than three towed vehicles described in



subdivision (a), (b), (e), (f), or (g) of Section 34500, for which the fee shall be one hundred dollars (\$100). Federal, state, and local public entities are exempt from the fee requirements of this section.

(2) Except as provided in paragraph (4), the inspection term for each inspected terminal of a motor carrier shall expire 25 months from the date the terminal receives a satisfactory compliance rating, as specified in subdivision (h). Applications and fees for subsequent inspections shall be submitted not earlier than nine months and not later than seven months before the expiration of the motor carrier's then current inspection term. If the motor carrier has submitted the inspection application and the required accompanying fees, but the department is unable to complete the inspection within the 25-month inspection period, then no additional fee shall be required for the inspection requested in the original application.

(3) All fees collected pursuant to this subdivision shall be deposited in the Motor Vehicle Account in the State Transportation Fund. An amount equal to the fees collected shall be available for appropriation by the Legislature from the Motor Vehicle Account to the department for the purpose of conducting truck terminal inspections and for the additional roadside safety inspections required by Section 34514.

(4) To avoid the scheduling of a renewal terminal inspection pursuant to this section during a carrier's seasonal peak business periods, the current inspection term of a terminal that has paid all required fees and has been rated satisfactory in its last inspection may be reduced by not more than nine months if a written request is submitted by the carrier to the department at least four months prior to the desired inspection month, or at the time of payment of renewal inspection fees in compliance with paragraph (2), whichever date is earlier. A motor carrier may request this adjustment of the inspection term during any inspection cycle. A request made pursuant to this paragraph shall not result in a fee proration and does not relieve the carrier from the requirements of paragraph (2).

(f) It is unlawful for a motor carrier to operate any vehicle subject to this section without having submitted an inspection application and the required fees to the department as required by subdivision (e) or (h).

(g) It is unlawful for any motor carrier to operate any vehicle subject to this section after submitting an inspection application to the department, without the inspection described in subdivision (d) having been performed and a safety compliance report having been issued to the motor carrier within the 25-month inspection period or within 60 days immediately preceding the inspection period.

(h) (1) Any inspected terminal that receives an unsatisfactory compliance rating shall be reinspected within 120 days after the issuance of the unsatisfactory compliance rating.

(2) A terminal's first required reinspection under this subdivision shall be without charge unless one or more of the following is established:

(A) The motor carrier's operation presented an imminent danger to public safety.

(B) The motor carrier was not in compliance with the requirement to enroll all drivers in the pull notice program pursuant to Section 1808.1.

(C) The motor carrier failed to provide all required records and vehicles for a consolidated inspection pursuant to subdivision (b).

(3) If the unsatisfactory rating was assigned for any of the reasons set forth in paragraph (2), the carrier shall submit the required fee as provided in paragraph (4).

(4) Applications for reinspection pursuant to paragraph (3) or for second and subsequent consecutive reinspections under this subdivision shall be accompanied by the fee specified in paragraph (1) of subdivision (e) and shall be filed within 60 days of issuance of the unsatisfactory compliance rating. The reinspection fee is nonrefundable.

(5) When a motor carrier's Motor Carrier of Property Permit or Public Utilities Commission operating authority is suspended as a result of an unsatisfactory compliance rating, the department shall conduct no reinspection until requested to do so by the Department of Motor Vehicles or the Public Utilities Commission, as appropriate.

(i) It is the intent of the Legislature that the department make its best efforts to inspect terminals within the resources provided. In the interest of the state, the Commissioner of the California Highway Patrol may extend for a period not to exceed six months the inspection terms beginning prior to July 1, 1990.

1 (j) To encourage motor carriers to attain continuous
2 satisfactory compliance ratings, the department may establish and
3 implement an incentive program consisting of the following:

4 (1) After the second consecutive satisfactory compliance rating
5 assigned to a motor carrier terminal as a result of an inspection
6 conducted pursuant to subdivision (d), and after each consecutive
7 satisfactory compliance rating thereafter, an appropriate
8 certificate, denoting the number of consecutive satisfactory
9 ratings, shall be awarded to the terminal, unless the terminal has
10 received an unsatisfactory compliance rating as a result of any
11 inspection conducted in the interim between the consecutive
12 inspections conducted under subdivision (d), or the motor carrier
13 is rated unsatisfactory by the department following a controlled
14 substances and alcohol testing program inspection. The certificate
15 authorized under this paragraph shall not be awarded for
16 performance in the administrative review authorized under
17 paragraph (2). However, the certificate shall include a reference to
18 any administrative reviews conducted during the period of
19 consecutive satisfactory ratings.

20 (2) Unless the department's evaluation of the motor carrier's
21 safety record indicates a declining level of compliance, a terminal
22 that has attained two consecutive satisfactory compliance ratings
23 assigned following inspections conducted pursuant to subdivision
24 (d) is eligible for an administrative review in lieu of the next
25 required inspection, unless the terminal has received an
26 unsatisfactory compliance rating as a result of any inspection
27 conducted in the interim between the consecutive inspections
28 conducted under subdivision (d). An administrative review shall
29 consist of all of the following:

30 (A) A signed request by a terminal management representative
31 requesting the administrative review in lieu of the required
32 inspection containing a promise to continue to maintain a
33 satisfactory level of compliance for the next 25-month inspection
34 term.

35 (B) A review with a terminal management representative of the
36 carrier's record as contained in the department's files. If a terminal
37 has been authorized a second consecutive administrative review,
38 the review required under this subparagraph is optional, and may
39 be omitted at the carrier's request.



(C) Absent any cogent reasons to the contrary, upon completion of the requirements of subparagraphs (A) and (B), the safety compliance rating assigned during the last required inspection shall be extended for 25 months.

(3) Not more than two administrative reviews may be conducted consecutively. At the completion of the 25-month inspection term following a second administrative review, a terminal inspection shall be conducted pursuant to subdivision (d). If this inspection results in a satisfactory compliance rating, the terminal shall again be eligible for an administrative review in lieu of the next required inspection. If the succession of satisfactory ratings is interrupted by any rating of other than satisfactory, irrespective of the reason for the inspection, the terminal shall again attain two consecutive satisfactory ratings to become eligible for an administrative review.

(4) As a condition for receiving the administrative reviews authorized under this subdivision in lieu of inspections, and in order to ensure that compliance levels remain satisfactory, the motor carrier shall agree to accept random, unannounced inspections by the department.

SEC. 6. The Department of the California Highway Patrol, in consultation with the Department of Toxic Substances Control, shall prepare a report on the feasibility and cost-effectiveness of requiring all commercial motor vehicles ~~carrying~~ *required to display warning placards when transporting any amount of explosives, radiological materials, or extremely toxic materials poisonous materials, or extremely hazardous waste* to be equipped with global positioning devices. The completed report shall be submitted to the Chief Clerk of the Assembly and the Secretary of the Senate no later than July 1, 2004.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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